IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

OP.No. 19174 of 1998(G)

PETITIONER:

K.RAJENDRAN,
AGED 55 YEARS,
S/O.KUNJUKRISHNAN, T.C.31/1286,
CHAKAI, TRIVANDRUM.

BY ADV. SRI.R.S.KALKURA
SRI.P.V.VENUGOPAL
SRI.P.C.HARIDAS

RESPONDENTS:

1. STATE OF KERALA REP.BY
CHIEF SECRETARY, GOVT. OF KERALA,
SECRETARIATE, TRIVANDRUM.

2. COMMISSIONER & SECRETARY,
REVENUE 'B' DEPARTMENT,
SECRETARIATE, TRIVANDRUM.

3. DISTRICT COLLECTOR,
COLLECTORATE, VANCHIYOOR,
THIRUVANANTHAPURAM.

4. KERALA WATER AUTHORITY, REP.BY ITS
MANAGING DIRECTOR, JALA BHAVAN,
VELLAYAMBALAM.

5. TAHSILDAR (L.A),
TALUK OFFICE, SREEKANTESWARAM,
TRIVANDRUM.

BY ADV. SRI.BABU VARGHESE
SMT.CHINCY GOPAKUMAR, SC, KWA
R1 TO R3 & R5 BY GOVERNMENT PLEADER SMT.LATHA THANKAPPAN.
SRI.THOMAS MATHEW NELLIMOOTTIL,SC,KWA
R4 BY SMT.AMBIKA DEVI, SC, KWA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

O.P. NO. 19174 OF 1998 - G

Dated this the 13th day of March, 2007

J U D G M E N T

Petitioner is the owner of 88 cents of property comprised in Sy.Nos.688 and 522 of Pettah Village, Trivandrum Taluk. Initially, an extent of 15 cents of property was acquired for the purpose of construction of a road. Subsequently, another portion of land was acquired for widening of National Highway. Thereafter, the respondents initiated steps for third acquisition. Petitioner made several attempts to exempt the property from acquisition or at least to get 10 cents of land back. His attempts were failed. Award was passed. The amount was not received by the petitioner. So the case was referred to the Land Acquisition Court under Section 18 of the Land Acquisition Act. Petitioner filed original petition (O.P.No.14889 of 1997) before this Court seeking for a prayer to issue a direction to the respondents to release and return 10.95 cents of property. That ended in its dismissal. Subsequently, he has filed this original petition for a direction to respondents 1 to 3 and 5 to issue notice of award as contemplated under Section 12(2) of the Land Acquisition Act to

the petitioner within a time stipulated by this Court, leaving open to him to exercise his option and rights available to him under the Act.

2. The only question arising for consideration is whether the petitioner is entitled to such a relief. His case is that while he was making efforts to get the land exempted from acquisition proceedings, the Land Acquisition Officer proceeded with the acquisition ignoring the stay orders passed by this Court and no notice of passing of the award was issued to him. So the one and only question for consideration is whether the petitioner was aware of passing of the award.

3. The fifth respondent has filed a counter statement contending that there were two notices of land acquisition were served. Notice in L.A.C.No.8/93 was served on the petitioner through his wife Smt.Jayalakshmi on 22.4.1993 and another notice in L.A.C.No.9/93 was served on the petitioner himself on 3.5.93. It was further contended that the notice in form No.12 read with Rule 15(3) of the Land Acquisition Rules was served on the petitioner by affixing the

same on the outer door of the building in which the petitioner is residing and the notice was affixed on 25.4.1996. Even accepting the case of the petitioner that no such notice was really affixed or served on him, Exts.P17 communication issued by the District Collector and P18 representation, produced by the petitioner himself in this original petition itself would indicate that the petitioner was aware of the passing of the award at least in June 1996. Ext.P17 is a letter written by the District Collector to the petitioner on 28.6.1996 in which it was stated that an award was passed under Section 31(2) of the Land Acquisition Act and payment of compensation can be affected only through the court. It was also stated that the case would be referred to court immediately for adjudication and the petitioner can approach the court for further action in the matter. Ext.P18 is a reply written by the petitioner to the District Collector on 5.7.1996. There is an unequivocal admission in that letter that he had received the letter written by the Collector on 28.6.1996. It is also stated the communication that the compensation awarded stated to have been passed under Section 31(2) of

the Land Acquisition Act seems to be for the entire extent of land and that is not made clear. It is further stated that the portion of the land ordered to be reconveyed to him need not be subjected to an adjudication in the name of compensation award. So the petitioner is fully aware of the fact, at least on 5.7.1996, that an award was passed. This writ petition is filed only on 15.9.1998. So, even the petitioner did not approach this Court within six months from the date of his knowledge.

4. I do not think, any lawful purpose will be served by taking evidence as to whether the notice of award was actually served on the petitioner. Since there is inordinate delay in approaching this Court, the petitioner is not entitled to any relief.

In the result, the writ petition is dismissed.

K.PADMANABHAN NAIR,
Judge

Mbs/

K.PADMANABHAN NAIR, J.

O.P. NO.19174 OF 1998 G

J U D G M E N T

DATED:13-03-2007